REMARKS

After the Final Office Action mailed March 3, 2008 (hereinafter: "the Final Office Action"), claims 1-10 and 21-24 stand rejected. Claim 1 has been amended to incorporate the subject matter of claim 2, and claim 2 has been cancelled. Claim 3 has been amended to depend from claim 1. Allowance of the subject application in view of this amendment and the following remarks is respectfully requested.

I. **Finality of the Rejection**

In the Final Office Action, the Examiner cites a new ground for rejecting both the original claim set 1-10 and claims 21-24, which represented subject matter previously indicated as allowable. The Examiner notes in the Office Action that new grounds of rejection have been advanced, but states that "Applicant's amendment necessitated the new ground(s) of rejection." (See Final Office Action, pg. 7). It is respectfully submitted that the final rejection of claims 1-10 and 21-24 is improper, as the amendment made in response to the Office Action mailed November 14, 2007

(hereinafter: "the previous Office Action") did not include an amendment to claims 1-10, and the addition of claims 21-24 to capture subject matter deemed allowable should have reasonably been expected by the Examiner (*See* MPEP §706.07(a), third paragraph).

MPEP §706.07(a) states that "...a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art". Neither claim 1 nor any of the claims that depend from claim 1 were amended in the previous Office Action, but the grounds of rejection for claims 1-10 have been changed in the Final Office Action, specifically from a rejection under 35 U.S.C. §102(e) over U.S. Patent No. 6,944,859 to Bunger to a rejection under 35 U.S.C. §102(e)

over U.S. Patent No. 6,553,375 to Huang et al. (hereinafter: "Huang"). It is thus respectfully submitted that the final rejection of these claims is premature.

Further, in the previous Office Action, the Examiner indicated that a number of dependent claims contained allowable matter. In response, new claims were added incorporating the matter deemed allowable, and a number of claims were cancelled. No substantive amendment to the claims was made; the claims indicated as allowable by the Examiner were merely recast in independent form as a new set of claims.

The MPEP, at §706.07(a) ¶3 states that "[a] second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed." It is respectfully submitted that these amendments, which merely incorporated subject matter indicated as allowable in independent form, should have reasonably been expected by the Examiner, and are

thus insufficient grounds for a final rejection in view of new grounds for rejection. It is thus respectfully submitted that the final rejection of claims 1-10 and 21-24 is improper and that in view of the premature finality of the rejection, the above amendment be entered.

It is further submitted that this amendment merely merges a dependent claim into its base claim, reducing the issues in dispute and placing the application in better form for further consideration or appeal. Entrance of this amendment is thus respectfully requested.

II.   Rejection of Claims 1-10 and 21-24 Under 35 U.S.C. §102

Claims 1-10 and 21-24 have been rejected as anticipated by U.S. Patent No. 6,553,375 to Huang et al. (hereinafter: "Huang"). It is respectfully submitted that Huang does not teach all of the elements of claims 1-10 and 21-24.

Claim 1, as amended, recites a system for enabling a hand-held, mobile data acquisition device. A first set of software applications, defined by a first User Role, for use with the mobile data acquisition device

is located on a remote computer. The remote computer transfers the first set of software applications from the remote computer to the mobile data acquisition device. The remote computer installs and enables the first set of software applications on the mobile data acquisition device, with the first set of applications replacing a factory default software application.

It is respectfully submitted that Huang does not teach the organization of software applications by User Role, which is defined explicitly in the specification in a manner comprehensible to one of skill in the art in the paragraph beginning on line one of page eight as "a categorical approach to grouping tasks by job responsibility." There is no such teaching in Huang. The access control list (407/607) controls the access for individual user accounts and devices to the various applications, but there is no organization of the applications by User Role as recited in the claim and defined in the specification. *See* Huang Col. 5, lines

38-50.   The Examiner cites a portion of Huang that describes downloading a "default set of applications that the client does not have," but it is respectfully submitted that if the applications are the default set, then they are clearly not defined by an associated User Role as recited in claim 1.   It is thus respectfully submitted that claim 1 is patentable over Huang.

Claim 3 further recites that the system can disable the first set of applications and enable a second set of applications defined by a second User Role.   The Final Office Action points out that Huang teaches deleting applications from the client application list, and reads this deletion as the recited disabling of the applications.

It is respectfully submitted that Huang does not teach disabling or deleting a set of applications according to an associated User Role as recited in claim 3. The claim specifically recites that the disabled set of applications is associated with a first

User Role and the enabled set of applications is associated with a second User Role. Huang does not teach enabling or disabling applications in groups organized by User Role. It is thus respectfully submitted that claim 3 is patentable over Huang.

Claims 3-10 each depend from claim 1 and should be allowable for at least the same reasons. It is thus submitted that claims 1 and 3-10 are patentable over Huang and the withdrawal of the rejection of claims 1, and 3-10 is respectfully requested.

Claim 21 recites a system for enabling a hand-held, mobile data acquisition device. A software application, located on a remote computer, is provided for use with the mobile data acquisition device. The remote computer transfers the software application from the remote computer to the mobile data acquisition device. The mobile data acquisition device includes a User Role selection module, an application list module, and an application selection module. The remote

-14-

computer installs and activates the software application for use by the mobile data acquisition device. The software application is determined by a user and replaces a factory default software application.

It is respectfully submitted that claim 21 is patentable over Huang, as Huang fails to teach a mobile data acquisition device includes a User Role selection module, an application list module, and an application selection module. A "User Role" is defined explicitly in the text in a manner compensable to one of skill in the art in the specification paragraph beginning on line one of page eight as "a categorical approach to grouping tasks by job responsibility." Huang does not teach any such grouping of applications, and thus does not teach a User Role selection module as recited in claim 21.

The Final Office Action cites FIG. 3 and the "updated client application list" as providing this

teaching. The cited text and figure, at best, describe a list of application identification information (e.g., name, version, and associated icon) and an associated status for each application. Nothing would indicate a grouping of the text by User Role, or an associated selection module that operates to select applications by any sort of categorical organization. It is thus respectfully submitted that Huang does not teach organization applications according to associated user roles, and thus does not teach a User Role selection module, as recited in claim 21.

Claims 22-24 each depend from claim 21 and should be allowable for at least the same reasons. It is thus submitted that claims 21-24 are patentable over Huang and the withdrawal of the rejection of claims 21-24 is respectfully requested.

In light of the above amendment and remarks, it is respectfully submitted that the application should be in condition for allowance.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,

Robert B. Sundheim
Reg. No. 20,127

TAROLLI, SUNDHEIM, COVELL,
& TUMMINO, LLP
Phone:(216) 621-2234
Fax: (216) 621-4072
Customer No. 26294